

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 03-12297-RWZ

SCOTT M. EPSTEIN

v.

C.R. BARD, INC., FUTUREMED INTERVENTIONAL, INC., and CROSSBOW
VENTURES, INC.

**PLAINTIFF SCOTT M. EPSTEIN'S PARTIALLY ASSENTED TO
MOTION FOR A STAY OF ALL FURTHER PROCEEDINGS**

Plaintiff Scott M. Epstein ("Mr. Epstein") by and through his undersigned attorneys hereby moves this Court for entry of an order staying all further proceedings related to the above captioned matter due to the call to active military duty of Attorney Gary E. Lambert, sole Counsel for Mr. Epstein. Defendant C.R. Bard, Inc. ("Bard") has assented to this motion. Defendant Futuremed does not assent to this motion. Defendant Crossbow has been contacted but as of the time of filing of this motion, had not responded. Both Mr. Epstein and Bard understand and agree that when the proceedings start upon the return of Attorney Lambert, both parties assent to Bard's filing another 12(b)(6) motion to dismiss Mr. Epstein's remaining two counts of the original Complaint.

The grounds for this Motion are set forth in the attached Memorandum and as follows:

Plaintiff's sole Counsel, Gary E. Lambert, a Colonel in the U.S. Marine Corps Reserve, has been called to active duty in Iraq. Attorney Lambert has been Mr. Epstein's sole Counsel in numerous legal matters dating back to 1994 and as such, is the only counsel qualified to make legal decisions on behalf of Mr. Epstein. Therefore, proceeding with the instant action, including

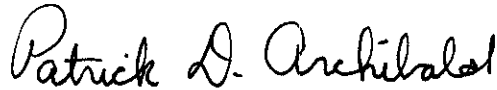
the August 18, 2004 scheduling conference, in the absence of Attorney Lambert would clearly serve to unduly prejudice Mr. Epstein.

Further, Mr. Epstein requests this Court allow Mr. Epstein to preserve the right to request leave to amend the present Complaint and also to move for reconsideration of this Court's July 19, 2004 Order regarding Defendants' Motions to Dismiss. Finally, Mr. Epstein requests that this Court toll any applicable statutes of limitation that may run during the stay period.

Wherefore, Mr. Epstein requests that this Court order a stay of all proceedings surrounding the instant action until Attorney Gary Lambert's return from active duty.

Dated: August 11, 2004

Attorneys for Plaintiff Scott M. Epstein

A handwritten signature in black ink, reading "Patrick D. Archibald". The signature is written in a cursive, flowing style.

Patrick D. Archibald, Esq.

BBO # 657,757

LAMBERT & ASSOCIATES

92 State Street

Boston, MA 02109-2004

Tel.: (617) 720-0091

Fax: (617) 227-0313

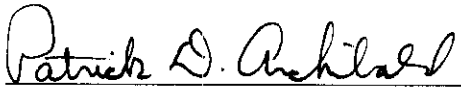
CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon all the attorneys of record on August 11, 2004 by First Class Mail, Postage Pre-Paid to:

Attorney Michael Albert
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210

Attorney Andrew Good
Good & Cormier
83 Atlantic Avenue
Boston, MA 02110

Attorney Samuel Levy
Wuersch & Gering LLP
11 Hanover Square, 19th Floor
New York, NY 10005



Patrick D. Archibald, Esq.